

Remarks

Claims 1-18 were pending in the subject application. By this Amendment, the applicant has amended claims 3, 4, 9, 14, 15, and 18, cancelled claims 16-17, and added claims 19-20. No new matter has been added by this Amendment. Support for the amendments to the claims can be found throughout the subject specification and in the claims as originally filed (see, for example, the figures and original claims 1, 3, and 4). Entry and consideration of the amendments presented herein is respectfully requested. Accordingly, claims 1-15 and 18-20 are currently before the Examiner. Favorable consideration of the pending claims is respectfully requested.

The amendments to the claims have been made in an effort to lend greater clarity to the claimed subject matter and to expedite prosecution. These amendments should not be taken to indicate the applicants' agreement with, or acquiescence to, the rejections of record. Favorable consideration of the claims now presented, in view of the remarks and amendments set forth herein, is earnestly solicited.

Initially, the drawings have been objected to under 37 C.F.R. §1.83(a) for not showing every feature of the invention specified in the claims. The applicant respectfully traverses this objection because every feature is shown in the drawings. In this regard, please note that, in the context of the present invention, the bolts are the mating profiles of the batten and body which form a "bolt and track pair."

The Office Action indicates that "bolts" must be shown or cancelled from the claims. However, the applicant respectfully submits that the bolts, as described in the specification, are already depicted in the drawings. The applicant submits that the Office Action mistakenly interprets "bolt" as a threaded pin or rod, whereas in the context of the current invention, it is the mating profiles of the batten and body that are a "bolt and track pair". The specification provides at page 2, lines 24-29 that the:

".....complementary profiles for sliding engagement may comprise a longitudinal bolt and track pair. By "bolt and track pair" it is meant configuration in the manner of a bolt rope and track arrangement, whereby an elongate lug or bolt having substantially the section of a solid of rotation is supported on a web, the complementary track having a cavity of substantially the same solid-of-rotation section accessed by a slot, the lug or bolt entering the cavity at its end and the web passing through the slot."

In the drawings, the bolt function is depicted by the end portions **130** and **131** of FIGS. 2, 3, and 4. The track function is depicted by the recesses **150** and **151** of the support member or batten **144** of FIGS. 4, 8, and 9.

Thus, the applicant submits that the term “bolt” in the context of the claims is clear and that the drawings currently depict it. Accordingly, the applicant respectfully requests consideration and withdrawal of the objection to the drawings for not showing every feature of the invention specified in the claims.

The drawings have also been objected to for lacking labels for the figure numbers. Replacement Drawing Sheets, in compliance with 37 C.F.R. §1.121(d), are attached hereto with the figures numbers included. Therefore, withdrawal of the objection to the drawings for lacking figures numbers is respectfully requested.

Next, the specification has been objected to for missing headings and for a typographical error. The applicant thanks the Examiner for carefully reviewing the application. By this Amendment, the specification has been amended to insert appropriate headings and to correct the typographical error. Accordingly, withdrawal of the objection to the specification is respectfully requested.

Claims 3, 11, 15, and 17 are objected to for informalities. Once again, the applicant thanks the Examiner for carefully reviewing the application. By this Amendment, claim 17 has been cancelled and claims 3, 11, and 15 have been amended to correct the informalities as suggested. Accordingly, withdrawal of the objection to the claims is respectfully requested.

Claims 3-5, 9, 14, and 17-18 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. The applicant respectfully traverses this ground for rejection to the extent that it might be applied to the claims now presented for examination.

While the applicant believes the claims as previously presented clearly defined the subject matter regarded as the invention, claims 3, 4, 9, 14, and 18 have been amended herein in an effort to expedite prosecution. For example, claim 9 has been amended to remove the phrase “may be”, and the some of the features of previous claim 3 have been moved to claim 4 and new claim 20.

Additionally, claim 17 has been cancelled, thereby rendering moot this rejection as it pertains to that claim.

With regard to the legal test for meeting the requirements of 35 U.S.C. §112, second paragraph, the Court of Appeals for the Federal Circuit has stated:

The test for definiteness is whether one skilled in the art would understand the bounds of the claim when read in light of the specification. If the claims read in light of the specification reasonably apprise those skilled in the art of the scope of the invention, §112 demands no more. The degree of precision necessary for adequate claims is a function of the nature of the subject matter. *Miles Lab., Inc. v. Shandon, Inc.* 997 F.2d 870,875,27 USPQ2d 1123, 1126 (Fed. Cir. 1993) (internal citations omitted).

In view of the clear and unambiguous language utilized in the applicant's claims, the applicant respectfully submits that one skilled in the art would have no trouble understanding the metes and bounds of the claims and would be fully apprised of the scope of the claim. As stated by the CAFC, "§112 demands no more."

The applicant believes that the claims particularly point out and distinctly claim the subject matter which is regarded as the invention. Accordingly, the applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. §112, second paragraph.

Claims 1-15, 17, and 18 have been rejected under 35 U.S.C. §102(b) as being anticipated by De Zen (US. Patent No. 5,636,481). The applicant respectfully traverses this ground for rejection because the cited reference does not disclose each and every element of the claimed invention.

It is a basic premise of patent law that, in order to anticipate, a single prior art reference must disclose within its four corners, each and every element of the claimed invention. In *Lindemann v. American Hoist and Derrick Co.*, 221 USPQ 481 (Fed. Cir. 1984), the court stated:

Anticipation requires the presence in a single prior art reference, disclosure of each and every element of the claimed invention, arranged as in the claim. *Connell v. Sears Roebuck and Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983); *SSIH Equip. S.A. v. USITC*, 718 F.2d 365, 216 USPQ 678 (Fed. Cir. 1983). In deciding the issue of anticipation, the [examiner] must identify the elements of the claims, determine their meaning in light of the specification and prosecution history, and identify corresponding elements disclosed in the allegedly anticipating reference. *SSIH, supra*; *Kalman [v. Kimberly-Clarke]*, 713 F.2d 760, 218 USPQ 781 (Fed. Cir. 1983)] (emphasis added). 221 USPQ at 485.

The Office Action states that De Zen discloses a cladding apparatus for covering the junction between a roof and a fascia of a building. However, the applicant respectfully disagrees. The De Zen reference actually teaches a fascia-less roofing system based on hollow extruded panels (see reference number **8** of De Zen) joined by extruded box connectors **10**. The lateral edges of the roof assembly are formed by an extruded roof panel of terminal form **14**. The extruded box connectors **10** can connect to a recess of an extruded elongate roof panel adapter **13**. The De Zen adapters **13** in turn have an upper elongate recess adapted to receive respective edge tile **15** and main roof tile **16** portions.

While De Zen's edge tile **15** could be seen as an elongated body member having an inner surface and an outer surface, the roof panel adapter **13** is not a batten associated with a fascia, as required by the claimed invention. Even if, for the sake of argument, the adapter **13** of De Zen is considered to be akin to a batten, the applicant submits that it is clearly not associated with a fascia, as required by the applicant's claims.

The Office Action refers to item **2** as a fascia, but De Zen plainly uses item **2** to indicate the roof assembly itself (see, for example, column 3, lines 33-35 and 57-58 of De Zen). Once again, for the sake of argument, if item **2** is interpreted as a fascia, the roof panel adapter **13** is clearly not a batten associated with the surface of item **2**.

Independent claims 1 and 14 of the present invention each recite a cladding apparatus for covering the junction between a roof and a fascia, which comprises a mounting batten associated with said fascia. De Zen, on the other hand, contains no disclosure of such a mounting batten. Even if adapter **13** is deemed similar to a batten, it is plainly not associated with a fascia.

Additionally, the dependent claims further distinguish the present invention over the cited reference. Claim 4, as amended, requires that the roof be provided with an elongate roof batten sealingly supported on the roof. This limitation was previously contained in claim 3, and the Office Action asserted that item **14** of De Zen satisfied it. However, as discussed above, De Zen's item **14** is an extruded roof panel of terminal form. It forms part of the underlying roof structure and is not an elongate roof batten sealingly supported on the roof, as required by amended claim 4. Even if item **14** is considered akin to an elongate roof batten sealingly supported on the roof, it does not have an upper surface upon which the inner surface of the terminal tile member **15** bears in use. This

feature is also required by claim 4, as amended. In De Zen, instead of such a surface, there is essentially a knife edge (see FIG. 12 of De Zen).

Also, regarding claims 7 and 8, the applicant respectfully submits that the connection in De Zen between the tile elements **15** and the adapter **13** is compulsorily a snap-in connection, with barbs **25** adapted to "...thereafter spring outwardly to lock beneath the overlying surfaces." (see column 4, lines 36-38). This is not the same as, and in fact excludes the option of, connection therebetween by longitudinally sliding, as required by claim 7. Similarly, the connection of items **13** and **15** in De Zen also excludes connection therebetween by sequential installation by sliding from one end of the adapter, as required by claim 8.

Furthermore, the applicant respectfully submits that De Zen's adapter **13** and the portion of the tile **15** that engages it are not "...complementarily interrupted whereby said body members may be sequentially installed by offering up said body members to said batten intermediate its ends and sliding said body members into engagement with said batten." Instead, this element of claim 9 is yet another novel feature of the present invention.

Regarding claim 10, the applicant respectfully directs the Examiner's attention to specification's definition of a "bolt and track pair," discussed above. In view of the definition, the applicant submits that De Zen does not teach complementary profiles comprising a longitudinal bolt **8** and track pair **T** (referring to reference numbers and letters on the Office Action's marked up attachment of FIG. 2).

Moreover, the applicant submits that, in claim 11, the longitudinal edge adjacent the mounting portion refers to the edge overlying the fascia. Since the De Zen apparatus has no fascia, as discussed above, this feature is not taught by De Zen. Even if item **2** is considered a fascia, the flange **F** does not depend toward it.

Claim 14, like amended claim 4, also requires an elongate roof batten **14** sealingly supported on the roof. For the reasons discussed above regarding claim 4, this feature is absent in the De Zen reference.

Additionally, claims 15 and 18 each require that adjacent cladding portions of said roof and said fascia form intersecting planes and that the body member must comprise a pair of webs each adapted to overlie a cladding portion in use. The applicant respectfully submits that the ridge

example of FIG. 14 of De Zen does not fulfill these requirements. In any case, the Office Action ascribes the equivalent of the “body member” to be the feature edge tile **15**, which does not appear in FIG. 14. Thus, the ridge example of FIG. 14 cannot anticipate claims 15 or 18.

Furthermore, regarding new claim 19, De Zen’s roof panel **14** does not have a profile selected to conform to a shingle laid roof. A shingle laid roof has overlaps that impose a sawtooth profile to any roof batten that purports to conform to it, and this is not the case in De Zen.

Accordingly, the applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. §102(b) based on De Zen.

Claim 16 has been rejected under 35 U.S.C. §102(b) as being anticipated by Meadows (U.S. Patent No. 5,074,093). By this Amendment, claim 16 has been cancelled, thereby rendering moot this rejection.

In view of the foregoing remarks and the amendments to the claims, the applicants believe that the currently pending claims are in condition for allowance, and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees under 37 CFR §§1.16 or 1.17 as required by this paper to Deposit Account No. 19-0065.

The applicants invite the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,



David R. Saliwanchik

Patent Attorney

Registration No. 31,794

Phone No.: 352-375-8100

Fax No.: 352-372-5800

Address: P.O. Box 142950

Gainesville, FL 32614-2950

DRS/la

Attachment: Replacement Drawing Sheets (7 pages)